

REMARKS

Basis for the amendments to claim 1 may be found in original claims 4 and 7. Basis for new claim 25 may be found in original claim 18.

Restriction has been required between Group I claims 1-19 drawn to label stock and Group II claims 20-24 drawn to a method of forming labels. The Examiner states that the inventions are distinct as the process claimed can be used to make other materially different product, such as a sheet of paper that can be cut into postcards containing perforations for separation. It is respectfully urged that the reason for restriction is not well taken. The method claim does not include perforations and therefore the Examiner's alternative method would not be satisfactory and within the claims. Further, there has been no showing that the present invention would be suitable for formation of postcards with perforations. Label stock is not stiff enough for use as a postcard.

In accordance with the Examiner's request in paragraph 4 of the Office Action, the applicant confirms the election of Group I claims 1 to 19 for prosecution in this application. This election is with traversal. It is respectfully urged that the search and examination of the Group I drawn to label stock would be substantially overlapping with that of the Group II method drawn to the method of forming labels. As the searches would be overlapping, it is respectfully urged that there is not significant extra effort required to examine all inventions in one application. Therefore, it is respectfully requested that all claims in the application be examined and that the restriction requirement be withdrawn.

In paragraphs 7 and 8 of the Office Action, the claims are provisionally rejected on the ground of nonstatutory obvious-type double patenting over copending applications number 10/780,263 and 10/783,411 respectively. It is respectfully requested that these obviousness double patenting rejections be reconsidered and withdrawn in view of the terminal disclaimers accompanying this response.

In paragraph 10 claims 1-19 stand rejected under 35 USC 112 second paragraph as being indefinite. The Examiner states that the phrase "compliant carrier sheet" in claims 1-11, 18, and 19 is unclear which renders the claims vague and indefinite. The Examiner states that the specification and claim

language are unclear concerning what makes the "compliant sheet carrier". The Examiner questions whether the polymer film containing voids includes open cell foam material. This rejection is respectfully traversed. It is respectfully urged that the terms "compliant" and "pliant" are clear when the specification of the instant invention is considered. It is noted that the terms "pliant" and "compliant" are used interchangeably. Reference is made to page 8 in the paragraph from line 10-22. Further, it is noted that at page 11 lines 1-6 the term "pliant" is clearly defined by deformation properties. It is urged that the terms "pliant" and "compliant" are used interchangeably in this application, noting also the paragraph bridging pages 12 and 13 where compliant carrier sheet and pliant material forming the carrier sheet are utilizing interchangeably. The terms "pliant" and "compliant" are different forms of the same word and therefore may be used interchangeably and a definition is given for pliant compliant that is clear. With respect to the Examiner's query concerning voiding versus open cell foam it is clear from the specification that either material is acceptable if it meets the physical characteristics of being pliant. Therefore, it is respectfully requested that this rejection be reconsidered and withdrawn.

In paragraph 12 claims 1-4, 6, 8-12, and 14-16 stand rejected under 35 USC 102 as being anticipated by Aoki et al (2002/0004117). In paragraph 13 claims 1-4, 6, 8-12, and 14-16 stand rejected under 35 USC 102 as being anticipated by Aoki et al. (6,562,429). Both of these rejections will be dealt with together as it is believed the specifications on the same as one is the publication of the patent application and the other is the publication of the patent based on the application. The Examiner states that Aoki et al. discloses label stock comprising a pragmatic sheet, number 1 of Figure 1, a pressure sensitive adhesive, number 2 in Figure 1, and a compliant carrier sheet, number 3 in Figure 1 wherein the compliant carrier sheet comprises the voided layer adjacent the adhesive. The Examiner states that a compliant carrier sheet apparently would have the recovery properties claimed and would inherently have the bulk modulus properties. This rejection is respectfully traversed. Aoki et al. does not anticipate the invention as claimed as there is no release layer between the adhesive and the voided layer below the pragmatic sheet. Aoki intends to strip the release material 5 from the label stock, whereas the instant invention requires that the pragmatic layer be stripped from the cushioning layer. In the instant invention it is found

surprisingly that when used with thermal transfer imaging, in particular, the cushioning layer may be stripped from the pragmatic sheet resulting in a better label material as the voided layer is not present. The Examiner's attention is directed to page 38 lines 3-12 of the specification where the advantages of stripping the compliant sheet from the material to be the label are described. The claims as amended are not anticipated by Aoki because of the different location of the pressure sensitive adhesive and the release layer. Therefore, reconsideration and withdrawal of these rejections is respectfully requested.

In paragraph 15 claims 5, 7 and 17 stand rejected under 35 USC 103 as being unpatentable over Aoki et al. (429) in view Reiger et al. (061). Aoki is referenced substantially as in the 35 USC 102 rejection. Reiger is cited as disclosing a polyester polymer sheet having at least one voided layer and a release layer between the adhesive and the voided layer and the pragmatic sheet comprising a gelatin layer adjacent to said adhesive for the purpose of forming a label that is lower-cost and has excellent optical properties. The Examiner states it would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to provide the polyester sheet and gelatin layer in Aoki in order to form a label that is lower-cost and has excellent optical properties. This rejection is respectfully traversed. As set forth above in the discussion of Aoki et al., there is no disclosure or suggestion to strip the cushioning layer from the pragmatic sheet containing the image. Such a member is not formed in Aoki et al. Reiger et al. also does not disclose formation of such a sheet. Reiger does not disclose a sheet having cushioning properties of the claimed invention or the location of a release layer and a pressure sensitive adhesive above the cushioning layer and beneath the pragmatic sheet. Therefore, it is respectfully requested that this rejection be reconsidered and withdrawn as there are no teachings in Reiger et al. which overcome the failure of Aoki to teach the location of the release layer and pressure sensitive adhesive to allow stripping of the pragmatic sheet.

In paragraph 16 claims 13, 18, and 19 stand rejected under 35 USC 103 as being unpatentable over Aoki et al. (429) in view of Tsugawa et al (987). The Aoki reference is applied generally as in the paragraph 13 and 15 rejections, but it is noted that Aoki fails to disclose the pragmatic sheet comprising a thermal dye receiving layer or an inkjet receiving layer. Ishikawa et al. is stated to teach a pragmatic sheet comprising a thermal dye layer or inkjet receiver layer in a label

stack for the purpose of forming a recording material that has good sensitivity, image durability, resistance to heat, and moisture. The Examiner states it would have been obvious to one of ordinary skill in the art at the time the applicant's invention to provide a thermal dye receiver layer in Aoki et al. to form a superior recording material. This rejection is respectfully traversed. Tsugawa et al. does not overcome the disadvantages of the Aoki et al. material in that the pragmatic layer of Aoki et al. may not be separated as there is no release layer and pressure sensitive adhesive combination below the pragmatic layer. Tsugawa et al. does not disclose or suggest any modification of Aoki that would lead to the formation of a label product as is instantly claimed. Therefore, it is respectfully requested that this rejection be reconsidered and withdrawn.

Therefore, it is respectfully requested that the rejections under 35 USC 112, obviousness-type double patenting, 35 USC 102, and 35 USC 103 be reconsidered and withdrawn and that an early Notice of Allowance be issued in this application.

Respectfully submitted,



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If the Examiner is unable to reach the Applicant(s) Attorney at the telephone number provided, the Examiner is requested to communicate with Eastman Kodak Company Patent Operations at (585) 477-4656.